

On the Shore of Contemplation

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point

Wilayatul Faqih, The Governance of the JuristThis text is a response to some inquiries about the nature and role of the Governance of the Jurist (Wilayatul Faqih). The author discusses in this text some of the important issues related to Wilayatul Faqih; for example, whether the Jurist's authority is limited or absolute, whether he is .elected or appointed, and whether it is obligatory to follow his orders

Foreword by the Publisher

We live in an age of mass confusion in which the political landscape of countries around the world is changing at a rapid pace. It is an era in which nations are unilaterally deciding to invade sovereign, free countries under the pretext of 'liberation', 'freedom' and putting an end to 'state-sponsored terrorism' – an act which "they" refer to as 'pre-emptive strikes'. It is also a time in which countries are actively and whole-heartedly engaged in the greatest crimes against humanity which can be classified as nothing other than genocide and the enactment of their own

state-sponsored holocaust by subjugating those whose land they occupy and enacting fear on their neighbors who want nothing other than to live in peace and harmony.

In such

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times of peril and strife, it becomes incumbent upon everyone, however the Muslim in particular, to understand the global political maneuvers, rhetoric used to mislead the innocent people and the tactics employed to oppress the downtrodden peoples of the world – regardless of their color or religion – and to have a comprehensive awareness .of the various political theories and ideologies present

This will help in being able to better analyze and understand the various theories, see which one truly offers 'freedom' to the masses and help alleviate the present predicament which a majority of the countries of the world – particularly the 'Muslim' countries – are facing. In addition, from the point of view of the Islamic teachings of the Qur`an and Sunnah, it is incumbent that the Muslim understands the role which .'"religion' plays in 'politics

Indeed, in the Islamic world-view, there is no difference between 'religion' and 'politics' as one of the roles of 'politics' or 'government' was to grant humanity the freedom to worship their Lord in the way in which He wants them to submit to Him .((SWT

However, it must be kept in mind that the 'submission' to Allah (SWT) is not limited to the daily rituals such as prayers (salat), fasting (sawm), pilgrimage (hajj) and other such actions. Rather and more importantly, it extends to rules of social engagement, economic policy and covers the entire life of the human being – from birth to death – .and in all areas of life

Once we

understand the reason for the creation of the human being and why he was placed on this Earth, which is beautifully illustrated in the Noble Qur`an, we can then begin to understand the reason why Allah (SWT) appointed prophets to humanity, just as He (SWT) clearly tells us:

وَلَقَدْ بَعَثْنَا فِى كُلِّ أُمَّهٍ رَسُولاً أَنِ اعْ_بُدُوا اللهَ وَاجْتَنِبُوا الطَّاغُوتَ..

"Indeed We raised an apostle in every nation [to preach:] 'Worship Allah, and keep away from the despot…'"(۱)

Thus, how can we keep away from the despots, tyrants, oppressors and dictators if there is no land on the Earth which is ruled by the righteous people of Allah (SWT)? Where would the downtrodden people of the Earth – regardless of their 'religion' – flee to in times of peril and strife and in whom could they take refuge?

Indeed, this is exactly what the founder of the Islamic Republic of Iran and the Supreme Leader of the Muslim Ummah and the guide for all of the oppressed and downtrodden peoples of the Earth, the late Ayatullah al-Uzma al-Hajj as-Sayyid Ruhullah al-Musawi al-Khumayni alluded to in his work, Islamic Government, where he stated:

"The most Noble Messenger (SAWW) headed the executive and administrative institutions of Muslim society. In addition to conveying the revelation and expounding and interpreting the articles of faith and the ordinances and institutions of Islam, he undertook the implementation of law and the establishment of the ordinances of Islam, thereby, bringing into being the Islamic state.

He did not content himself with

۱- Surat al-Nahl (۱۶), Verse ۳۶

the promulgation of law; rather, he implemented it at the same time, cutting off hands .and administering lashings, and stonings

After the most Noble Messenger (SAWW), his successor had the same duty and .function

When the Prophet (SAWW) appointed a successor, it was not only for the purpose of expounding articles of faith and law; it was for the implementation of law and the execution of Allah's ordinances. It was this function – the execution of law and the establishment of Islamic institutions – that made the appointment of a successor such an important matter that the Prophet (SAWW) would have failed to fulfill his mission if !he had neglected it

For after the Prophet (SAWW), the Muslims still needed someone to execute laws and establish the institution of Islam in society, so that they might attain happiness in this .world and the hereafter

By their nature, in fact, laws and social institutions require the existence of an executor. It has always and everywhere been the case that legislation alone has little .benefit: legislation by itself cannot assure the well-being of mankind

After the establishment of legislation, an executive power must come into being, a power that implements the laws and the verdicts given by the courts, thus allowing people to benefit from the laws and the just sentences the courts deliver. Islam has therefore established an executive power in the same way that it has brought laws into being. The person who holds this executive power is known as the

(Waliul Amr.(١)

The sunnah(٢) and path of the Prophet (SAWW) constitute a proof of the necessity for establishing government.

First, he himself established a government, as history testifies. He engaged in the implementation of laws, the establishment of the ordinances of Islam, and the administration of society. He sent out governors to different regions; both sat in judgment himself and also appointed judges; dispatched emissaries to foreign states, tribal chieftains, and kings; concluded treaties and pacts; and took command in battle. In short, he fulfilled all the functions of government.

Second, he designated a ruler to succeed him, in accordance with Divine command.

If Allah Almighty, through the Prophet (SAWW), designated a man who was to rule over Muslim society after him, this is in itself an indication that government remains a necessity after the departure of the Prophet from this world.

Again, since the most Noble Messenger (SAWW) promulgated the divine command through his act of appointing a successor, he also, implicitly stated the necessity for establishing a government.

It is self-evident that the necessity for enactment of the law, which necessitated the formation of a government by the Prophet (SAWW), was confined or restricted to his time, but continues after his departure from this world.

According to one of the noble verses of the Qur`an, the ordinances of Islam are not limited with respect to time or place; they are permanent and must be enacted until the end of time.(٣) They were not revealed merely for the time of the

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١- Lit. "the one who holds authority," a term derived from the Noble Qur`an, ۴:۵۹: "O you who believe! Obey God, and obey the Messenger and the holders of authority (ūli 'l-amr) from among you." For commentary of this verse, see Mīr Ahmad Ali, The Noble

Qur`an (NY: Tahrike Tarsile Qur`an, ١٩٨٨).

٢- The practice of the Prophet, accepted by Muslims as the norm and ideal for all human behavior.

٣- See, for example, Sūrat Ibrāhīm (١٤), verse ٥٢: هَـذَا بَلاَغٌ لِلنَّاسِ وَلِيُنـذَرُوا بِهِ وَلِيَعْلَمُوا أَنَّمَا هُوَ إِلَهٌ وَاحِدٌ وَلِيَذَّكَّرَ أُوْلُوا الأَلْبَابِ "This is a proclamation for mankind so that they may be warned thereby, and know that He is indeed the One God, and those who possess intellect may take admonition." Sūrat Yūnus (١٠), verse ٢: أَكَانَ لِلنَّاسِ عَجَبًا أَنْ أَوْحَيْنَا إِلَى رَجُلٍ مِنْهُمْ أَنْ أَنْذِرِ النَّاسَ وَبَشِّرْ الَّذِينَ آمَنُوا أَنَّ لَهُمْ قَدَمَ صِدْقٍ عِنْدَ رَبِّهِمْ قَالَ الْكَافِرُونَ إِنَّ هَذَا لَسَاحِرٌ مُبِينٌ "Does it seem odd to these people that We have revealed to a an from among themselves, declaring , 'Warn mankind, and give good news to the faithful that they are in good standing with their Lord'? The faithless say, 'This is indeed a plain magician.'" Sūrat al-Hājj (٢٢), verse ٤٩: قُلْ يَا أَيُّهَا النَّاسُ إِنَّمَا أَنَا لَكُمْ نَذِيرٌ مُبِينٌ "Say, 'O mankind! I am only a manifest warner to you!'" Sūrat al-Ahzāb (٣٣), verse ٤٠: مَا كَانَ مُحَمَّدٌ أَبَا أَحَدٍ مِنْ رِجَالِكُمْ وَلَكِنْ رَسُولَ اللهِ وَخَاتَمَ النَّبِيِّينَ وَكَانَ اللهُ بِكُلِّ شَيْءٍ عَلِيمًا "Muhammad is not the father of any man among you, but he is the Apostle of Allah and the Seal of the Prophets, and Allah has knowledge of all things." and Sūrat Yā Sīn (٣٦), verse ٧٠: لِيُنْذِرَ مَنْ كَانَ حَيًّا وَيَحِقَّ الْقَوْلُ عَلَى الْكَافِرِينَ "So that anyone who is alive may be warned, and that the word may come due against the faithless."

Prophet (SAWW), only to be abandoned thereafter, with retribution and the penal code no longer be enacted, or the taxes prescribed by Islam no longer collected, and the defense of the lands and people of Islam suspended. The claim that the laws of Islam may remain in abeyance or are restricted to a particular time or place is contrary to the essential creedal bases of Islam!

Since enactment of laws, then, is necessary after the departure of the Prophet (SAWW) from this world, and indeed, will remain so until the end of time, the formation of a government and the establishment of executive and administrative organs are also necessary. Without the formation of a government and the establishment of such organs to ensure that through enactment of the law, all activities of the individual take place in the framework of a just system, chaos and anarchy will prevail and social, intellectual and moral corruption will arise. The only way to prevent the emergence of anarchy and disorder and to protect society from corruption is to form a government and thus impart order to all the affairs of the country.

Both reason and divine law, then, demonstrate the necessity in our time for what was necessary during the lifetime of the Prophet (SAWW) and the age of the Commander of the Faithful, Ali ibn Abi Talib (AS) -namely the formation of a government and the establishment of executive and administrative organs."(۱)

From this, we understand that the Prophet (SAWW) and his successors (AS) were

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۱- Islamic Government: Governance of the Jurist

not just ‘spiritual’ leaders – rather, they were also ‘temporal’ leaders as without .‘temporal’ leadership, it is impossible to enact ‘spiritual’ leadership

The life of the Prophet of Islam (SAWW) while in Madinah and his power of authority shows that he was not only a ‘prophet’ of Allah (SWT), rather, he was the ‘Khalifah’ of .Allah (SWT) - the governor appointed by Allah (SWT) to rule over the believers

Those who came after him, the twelve righteous and legitimate leaders (AS) were also charged with this responsibility and even though it was only the first Imam, the Commander of the Faithful, Ali ibn Abi Talib (AS), who was able to exercise this right [due to the political climate of the time], nonetheless, the remaining leaders of the faith (AS) also had this responsibility on their shoulders which was enacted in a limit .capacity amongst those who recognized and accepted their authority

Ruling by what Allah (SWT) has revealed in His revealed books is so important, that the Supreme Legislator has referred to this issue three times in one surah – one after the other! In these verses, He (SWT) has severely castigated those who rule and :adjudicate by anything other than the revelation of the Almighty

وَمَنْ لَمْ يَحْكُمْ بِمَا أَنزَلَ اللهُ فَأُوْلَئِكَ هُمُ الْكَافِرُونَ...وَمَنْ لَمْ يَحْكُمْ بِمَا أَنزَلَ اللهُ فَأُوْلَئِكَ هُمُ الظَّالِمُونَ...وَمَنْ لَمْ يَحْكُمْ بِمَا أَنزَلَ اللهُ فَأُوْلَئِكَ هُمُ الْفَاسِقُونَ .

Those who do not judge by what Allah has sent down, it is they who are the ... “

faithless ... Those who do not judge by what Allah has sent down, it is they who are the wrongdoers ... Those who do not judge by what Allah has sent down, it is they who are ".the transgressors

Thus, with the great importance that the issue of leadership and governance plays in Islam, especially in today's political climate in which many non-Muslims have launched calculated assaults against the teachings of Islam and in which an increasing number of 'Muslims' are claiming to speak for 'Moderate Muslims' or 'Moderate Islam' and are seeking to label and portray those Muslims who wish to follow the Qur`an and Sunnah as 'fundamentalists', it is of the utmost importance to understand the Islamic mode of governance which is based directly on the Qur`an and the Sunnah of the Prophet Muhammad (SAWW) – what is referred to as .'"Wilayatul Faqih' or the 'Governance of the Jurist

This short treatise is not meant to be an exhaustive look at this very important topic. It is merely an introduction to the 'Governance of the Jurist' and certain aspects related to his leadership and thus, we present this short work to the readers with the hopes that others who are more educated on this topic expend their energies to look at the 'Governance of the Jurist' from an even greater angle and with much more in-.depth insight from the Qur`an, Sunnah and the history of Islam

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With there being very few books on this topic in the English

language, it gives the Islamic Publishing House great pleasure to present this short tract on ‘The Governance of the Jurist’.

This work is an extract from the work, On the Shore of Contemplation, written in Farsi by Akbar Asad Ali Zadeh under the guidance of the well-known scholar and researcher, Ayatullah Shaykh Ja’far Subhani [www.imamsadeq.org] [۱۲] – the founder and rector of the Imam as-Sadiq (AS) Research Institute based in Qum, Iran.

The entire work, On the Shore of Contemplation, features a series of questions and answers on the following topics:

۱. Allah (SWT) and various issues in regards to the Creator;

۲. The creation of the Jinn;

۳. The necessity of following a religion;

۴. The necessity of following Islam;

۵. The intellect of the human being and how it can reach to completion;

۶. Logical proofs for the infallibility of the A`immah;

۷. The reason behind the occultation of Imam al-Zaman;

۸. Governance of the Jurist (the present work);

۹. The physical resurrection of human beings after being decomposed and consumed by animals;

۱۰. Nahj al-Balagha and women.

The book which you are currently holding is merely the first series of selected questions and answers to be published in English.

After feedback form the readership, and the assistance of Allah (SWT), we hope to have the other chapters of this work translated and published in the form of individual

.booklets, Insha-Allah

Due to various reasons, all installments in this series will be made available via www.iph.ca [۱۳] and www.al-mubin.org [۱۴]. Those wishing to publish this series in print format are requested

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.to contact the publishers for permission

All praise belongs to Allah – only the mistakes are mine

Islamic Publishing House

[www.iph.ca [۱۳

Foreword

By Ayatullah Shaykh Mirza Ja'far Subhani

The asking of questions and giving of their answers – as a pretext to guiding others – is one of the methods which the Qur`an has placed a great emphasis upon. Indeed, human society has been invited to approach the scholars and those aware of their cultural surroundings to ask them questions in order to overcome their ignorance, just :as we read

فَاسْئَلُوا أَهْلَ الذِّكْرِ إِنْ كُنْتُمْ لاَ تَعْلَمُونَ

(So then ask those of the Reminder if you do not know."(۱"

The Qur`an has not sufficed with this ruling of the people asking [and waiting for their answer from their scholars] and thus, we see that in some of the questions posed at the time of the message [revelation of the Qur`an], the answers were clearly delivered to the people [by the Prophet of Islam (SAWW) himself]. Such verses in the Qur`an are noted by the word 'يسألونك' or 'They ask you (O' Muhammad!)' – and this phrase has been used fifteen times(۲) in various chapters of the Qur`an.

The world today, thanks to the various tools of mass communication, has been transformed into a global village in which the people's ideologies and thoughts are quickly disseminated throughout the world. Due to this, the youth of today come across a series of new questions and there is nowhere they can turn in order to solve their

١- Surat al-Nahl (١۶), Verse ۴٣

٢- The phrase is seen in the following verses: يَسْأَلُونَكَ عَنِ الأَهِلَّةِ قُلْ هِيَ مَوَاقِيتُ لِلنَّاسِ وَالْحَجِّ وَلَيْسَ الْبِرُّ بِأَنْ تَأْتُوا الْبُيُوتَ مِنْ ظُهُورِهَا وَلَكِنَّ الْبِرَّ مَنِ اتَّقَى وَأْتُوا الْبُيُوتَ مِنْ أَبْوَابِهَا وَاتَّقُوا اللَّهَ لَعَلَّكُمْ تُفْلِحُونَ "They question you concerning the new moons. Say, 'They are timekeeping signs for the people and for the sake of hajj.' It is not piety that you come into houses from their rear; rather piety is personified by one who is God wary, and come into houses from their doors, and be wary of God, so that you may be felicitous." (٢:١٨٩) يَسْأَلُونَكَ مَاذَا يُنفِقُونَ قُلْ مَا أَنفَقْتُمْ مِنْ خَيْرٍ فَلِلْوَالِدَيْنِ وَالأَقْرَبِينَ وَالْيَتَامَى وَالْمَسَاكِينِ وَابْنِ السَّبِيلِ وَمَا تَفْعَلُوا مِنْ خَيْرٍ فَإِنَّ اللَّهَ بِهِ عَلِيمٌ "They ask you as to what they should spend. Say, 'Whatever wealth you spend, let it be for parents, relatives, orphans, the needy, and the traveller.' And whatever good that you may do, God indeed knows it." (٢:٢١۵) يَسْأَلُونَكَ عَنِ الشَّهْرِ الْحَرَامِ قِتَالٍ فِيهِ قُلْ قِتَالٌ فِيهِ كَبِيرٌ وَصَدٌّ عَنْ سَبِيلِ اللَّهِ وَكُفْرٌ بِهِ وَالْمَسْجِدِ الْحَرَامِ وَإِخْرَاجُ أَهْلِهِ مِنْهُ أَكْبَرُ عِنْدَ اللَّهِ وَالْفِتْنَةُ أَكْبَرُ مِنَ الْقَتْلِ وَلاَ يَزَالُونَ يُقَاتِلُونَكُمْ حَتَّى يَرُدُّوكُمْ عَنْ دِينِكُمْ إِنِ اسْتَطَاعُوا وَمَنْ يَرْتَدِدْ مِنْكُمْ عَنْ دِينِهِ فَيَمُتْ وَهُوَ كَافِرٌ فَأُوْلَئِكَ حَبِطَتْ أَعْمَالُهُمْ فِي الدُّنْيَا وَالآخِرَةِ وَأُوْلَئِكَ أَصْحَابُ النَّارِ هُمْ فِيهَا خَالِدُونَ "They ask you concerning warfare in the holy month. Say, 'It is an outrageous thing to fight in it, but to keep people from God's way, and to be unfaithful to Him, and to keep people from the Holy Mosque, and to expel its people from it are more outrageous with God. And faithlessness is graver than killing. And they will not cease fighting you until they turn you away from your religion, if they can. And whoever of you turns away from his religion and dies faithless —they are the ones whose works have failed in this world and the Hereafter. They shall be the inmates of the Fire, and they shall remain in it forever ." (٢:٢١٧) يَسْأَلُونَكَ عَنِ الْخَمْرِ وَالْمَيْسِرِ قُلْ فِيهِمَا إِثْمٌ كَبِيرٌ وَمَنَافِعُ لِلنَّاسِ وَإِثْمُهُمَا أَكْبَرُ مِنْ نَفْعِهِمَا وَيَسْأَلُونَكَ مَاذَا يُنفِقُونَ قُلْ الْعَفْوَ كَذَلِكَ يُبَيِّنُ اللَّهُ لَكُمْ الآيَاتِ لَعَلَّكُمْ تَتَفَكَّرُونَ "They ask you concerning wine and gambling. Say, 'There is a great sin in both of them, and some profits for the people, but their sinfulness outweighs their profit.' And they ask you as to what they should spend. Say, 'All that is surplus.' Thus does God clarify His signs for you so that you may reflect." (٢:٢١٩) فِي الدُّنْيَا وَالآخِرَةِ وَيَسْأَلُونَكَ عَنِ الْيَتَامَى قُلْ إِصْلاَحٌ لَهُمْ خَيْرٌ وَإِنْ تُخَالِطُوهُمْ فَإِخْوَانُكُمْ وَاللَّهُ يَعْلَمُ الْمُفْسِدَ مِنَ الْمُصْلِحِ وَلَوْ شَاءَ اللَّهُ لَأَعْنَتَكُمْ إِنَّ اللَّهَ عَزِيزٌ حَكِيمٌ "…. about the world and the Hereafter. And they ask you concerning the orphans. Say, 'It is better to set right their affairs, and if you intermingle with them, then they are your brothers: God knows the one who causes corruption from the one who brings about reform, and had God wished He would have put you to hardship.' Indeed God is all-mighty, all-wise." (٢:٢٢٠) وَيَسْأَلُونَكَ

عَنْ الْمَحِيضِ قُلْ هُوَ أَذًى فَاعْتَزِلُوا النِّسَاءَ فِي الْمَحِيضِ وَلاَ تَقْرَبُوهُنَّ حَتَّى يَطْهُرْنَ فَإِذَا تَطَهَّرْنَ فَأْتُوهُنَّ مِنْ حَيْثُ أَمَرَكُمْ اللَّهُ إِنَّ اللَّهَ
يُحِبُّ التَّوَّابِينَ وَيُحِبُّ الْمُتَطَهِّرِينَ “They ask you concerning intercourse during menses. Say, ‘It is
hurtful.’ So keep away from wives during the menses, and do not approach them till
they are clean. And when they become clean, go into them as God has commanded
you. Indeed God loves the penitent and He loves those who keep clean.” (٢:٢٢٢) يَسْأَلُكَ
أَهْلُ الْكِتَابِ أَنْ تُنَزِّلَ عَلَيْهِمْ كِتَابًا مِنْ السَّمَاءِ فَقَدْ سَأَلُوا مُوسَى أَكْبَرَ مِنْ ذَلِكَ فَقَالُوا أَرِنَا اللَّهَ جَهْرَةً فَأَخَذَتْهُمْ الصَّاعِقَةُ بِظُلْمِهِمْ ثُمَّ
اتَّخَذُوا الْعِجْلَ مِنْ بَعْدِ مَا جَاءَتْهُمْ الْبَيِّنَاتُ فَعَفَوْنَا عَنْ ذَلِكَ وَآتَيْنَا مُوسَى سُلْطَانًا مُبِينًا “The People of the Book ask
you to bring down for them a Book from the sky. Certainly they asked Moses for
something greater than that, for they said, ‘Show us God visibly,’ whereat a
thunderbolt seized them for their wrongdoing. Then they took up the Calf for worship ,
after all the manifest proofs that had come to them. Yet We excused that, and We
gave Moses a manifest authority.” (٤:١٥٣) يَسْأَلُونَكَ مَاذَا أُحِلَّ لَهُمْ قُلْ أُحِلَّ لَكُمْ الطَّيِّبَاتُ وَمَا عَلَّمْتُمْ مِنْ
الْجَوَارِحِ مُكَلِّبِينَ تُعَلِّمُونَهُنَّ مِمَّا عَلَّمَكُمْ اللَّهُ فَكُلُوا مِمَّا أَمْسَكْنَ عَلَيْكُمْ وَاذْكُرُوا اسْمَ اللَّهِ عَلَيْهِ وَاتَّقُوا اللَّهَ إِنَّ اللَّهَ سَرِيعُ الْحِسَابِ
“They ask you as to what is lawful to them. Say, ‘All the good things are lawful to you.’
As for what you have taught hunting dogs to catch , teaching them out of what God
has taught you, eat of what they catch for you and mention God’s Name over it, and
be wary of God. Indeed God is swift at reckoning.” (٥:٤) يَسْأَلُونَكَ عَنْ السَّاعَةِ أَيَّانَ مُرْسَاهَا قُلْ إِنَّمَا
عِلْمُهَا عِنْدَ رَبِّي لاَ يُجَلِّيهَا لِوَقْتِهَا إِلاَّ هُوَ ثَقُلَتْ فِي السَّمَاوَاتِ وَالأَرْضِ لاَ تَأْتِيكُمْ إِلاَّ بَغْتَةً يَسْأَلُونَكَ كَأَنَّكَ حَفِيٌّ عَنْهَا قُلْ إِنَّمَا عِلْمُهَا
عِنْدَ اللَّهِ وَلَكِنَّ أَكْثَرَ النَّاسِ لاَ يَعْلَمُونَ “They question you concerning the Hour, when it will set in.
Say, ‘Its knowledge is only with my Lord: none except Him shall manifest it at its time.
It will weigh heavy on the heavens and the earth. It will not overtake you but
suddenly.’ They ask you as if you were in the know of it. Say, ‘Its knowledge is only
with God, but most people do not know.’” (٧:١٨٧) يَسْأَلُونَكَ عَنْ الأَنْفَالِ قُلْ الأَنْفَالُ لِلَّهِ وَالرَّسُولِ فَاتَّقُوا اللَّهَ
وَأَصْلِحُوا ذَاتَ بَيْنِكُمْ وَأَطِيعُوا اللَّهَ وَرَسُولَهُ إِنْ كُنتُمْ مُؤْمِنِينَ “They ask you concerning the anfal. Say, ‘The
anfal belong to God and the Apostle.’ So be wary of God and settle your differences,
and obey God and His Apostle, should you be faithful.” (٨:١) وَيَسْأَلُونَكَ عَنِ الرُّوحِ قُلِ الرُّوحُ مِنْ أَمْرِ
رَبِّي وَمَا أُوتِيتُمْ مِنَ الْعِلْمِ إِلاَّ قَلِيلاً “They question you concerning the Spirit. Say, ‘The Spirit is of
the command of my Lord, and you have not been given of the knowledge except a
few of you .’” (١٧:٨٥) وَيَسْأَلُونَكَ عَنْ ذِي الْقَرْنَيْنِ قُلْ سَأَتْلُو عَلَيْكُمْ مِنْهُ ذِكْرًا “They question you
concerning Dhul Qarnayn. Say, ‘I will relate to you an account of him.’” (١٨:٨٣) وَيَسْأَلُونَكَ
عَنْ الْجِبَالِ فَقُلْ يَنسِفُهَا رَبِّي نَسْفًا “They question you concerning the mountains. Say, ‘My Lord
will scatter them like dust .” (٢٠:١٠٥) يَسْأَلُكَ النَّاسُ عَنْ السَّاعَةِ قُلْ إِنَّمَا عِلْمُهَا عِنْدَ اللَّهِ وَمَا يُدْرِيكَ لَعَلَّ السَّاعَةَ

The people question you concerning the Hour. Say, ‘Its knowledge is only“ تَكُونُ قَرِيبًا
with God.’ What do you know, maybe the Hour is near.” (۳۳:۶۳) يَسْأَلُونَكَ عَنِ السَّاعَةِ أَيَّانَ مُرْسَاهَا
“They ask you concerning the Hour, when it will set in.” (۷۹:۴۲)

.dilemmas except the scholars of the Divine teachings

In the hopes of fulfilling the noble goal of guiding the youth and providing answers to their questions, a department was formed at the 'Imam as-Sadiq (AS) Teaching and Research Institute' under the banner of the 'Department of Answering the Theological Questions' in which a group of graduate students who have specialized in the Science of Kalam (Theology) have taken it upon themselves to answer the various theological questions coming to this organization by keeping in mind the horizon of .thought of the youth

At this point in time, we are pleased to present a section of the questions and answers which have been compiled under the auspices of this humble servant and have been researched and written by the respected scholar, Aqa Akbar Asad Ali Zadeh and to .present this work to the scholars and researchers of the community

It is our hope that this small step is but an introduction to greater leaps and bounds in this field and that Allah, the Beneficent, accepts this insignificant service and grants us .success in being able to fulfill our religious responsibility

Ja'far Subhani

۲nd of Jumadi al-Awwal, ۱۴۲۲ ah

?The Authority of the Jurist (Faqih): Absolute or Limited

?Question: Is the authority of the Jurist (Faqih) absolute or limited? Why

The authority of the Jurist (Faqih) is absolute, meaning that the Supreme Leader (Wali al-Faqih) possesses all of the authority which the Noble Prophet (SAWW) and infallible .A`immah (AS) possess in relation to the administration of the society

:In order to better understand this discussion, we must first discuss two points

The first point is that 'wilayat' or

authority' is of two types – 'wilayat takwini' - the 'generative authority', and 'wilayat' tashrii' - the 'legislative authority'.

The 'generative authority' – meaning any form of intervention in the world of creation – is a right restricted to Allah (SWT) alone. However, sometimes Allah (SWT) grants a portion of this authority to some of His servants and the miracles and super-natural acts of the prophets and select-friends (awliya`) of Allah (SWT) stem from this form of authority.

The second form, the 'legislative authority', refers to the right to issue commandments and prohibitions in regards to matters of faith and the life of the temporal world.

When we say that the Noble Prophet (SAWW) and the A`immah (AS) possess 'wilayat tashrii' or the 'legislative authority', we mean that they have the right, by the permission of Allah (SWT), to command and prohibit the people from certain actions. Once these individuals (the Prophet (SAWW) and A`immah (AS) have employed their 'legislative authority', it then becomes obligatory upon the people to obey them in everything which they command (and prohibit).

We see that the same authority (as that of the Prophet (SAWW) and A`immah (AS) has also been given to the Jurist, and therefore, the meaning of the governance of the Jurist (the wilayat of the Faqih) is within the boundaries of the 'wilayat tashrii' or the 'legislative authority'.

Therefore, the Jurist also has the right, just as the Noble Prophet (SAWW) and A`immah (AS) have the canonical right, to command and prohibit the people

(from various actions.(1)

The second point which must be noted is that such an authority being absolute does not mean that it is unrestrained and uncontrolled! It does not mean that the Jurist can work in any way which he wishes!

Rather, the meaning of the absolute authority of the Jurist is that he has an absolute authority in regards to the enforcement of the Islamic injunctions. This means that the Jurist and Muslim ruler's absolute authority is limited to the scope of the implementation of the rulings – not that he is able to alter the Islamic commandments!

In addition, the meaning of the absolute authority in regards to the implementation of the rulings is not that the Jurist can put the Islamic laws into practice in any way he sees fit. Rather, the implementation of the Islamic laws must be carried out in the ways which the sacred teachings have explained that they are to be executed.(2)

The Reason why the Authority of the Jurist is Absolute

The reason why the authority of the Jurist is absolute is that during the occultation of Imam al-Zaman (may Allah hasten his return), since Islam must be implemented in all of its dimensions and because all of its societal rules must be put in place, the Jurist is the custodian of the faith.

In order to implement all of the Islamic commandments, the Islamic leader must establish a government so that all aspects of the Islamic regulations - such as the application of the rules of retribution, the economic regulations and all other areas of

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1- Ayatullah Muhammad Taqi Misbah Yazdi, Questions and Answers, vol. ١, pg. ٥٩

2- Ayatullah Abdullah Jawadi Amuli, Wilayatul Faqih, pg. ٢٥١

.life (governed by Islam) can be put into action

In addition, the Jurist who fulfills all of the conditions to implement this system is responsible for putting an end to all forms of societal corruptions and deviations for which he is in need of the co-operation of the entire society, a central system of .management and a just and able government

In order to regulate the society and implement the various Islamic regulations, the Muslim leader must be able to appoint individuals to maintain the system. He must also be able to issue the necessary laws and regulations for the maintenance and preservation of the country, protection of the wealth (of individuals), safety of the people and the freedom and independence of the entire Islamic society. Such laws .must also cover the areas of war and peace – as needed

Maintaining local and foreign relations; dispatching border patrols to protect the country; appointing the prayer leaders for Salatul Jumuah and Salatul Jamaat; appointing financial representatives who would be responsible for collecting the zakat and other forms of wealth [which are due by the people to maintain the country] and hundreds of other programs which must be implemented, including the various cultural issues, economic rights, political and military issues, etc… are all the definite !responsibility and task of the Jurist

Without such responsibilities, it would be impossible to implement the complete and comprehensive code of Islam and correctly manage the Islamic society in a way which would earn the pleasure of Allah

(SWT).(١)

In Summary

:From that which we have just mentioned, we conclude that

١. The meaning of 'wilayat' or 'authority' is the 'wilayat tashrii' or 'legislative authority'.

٢. The absolute authority does not mean that the Jurist works unrestrained or with no one overseeing him. Rather, it means that he has the absolute authority when it comes to the implementation of the Islamic regulations within the framework of the sacred teachings of Islam.

٣. Seeing as how the Jurist is responsible for all aspects of the faith and its protection during the occultation of the infallible Imam (AS), he cannot achieve his goals without having a full authority in the realm of the implementation of all of the aspects of Islam and the best form of management of the Islamic society as it should be managed and guided. Therefore, this (too) points to his absolute authority.

:For more information on this topic, refer to

١. Naqd Quarterly Journal, issue ٧, pp. ۶٨ to ۶٩.

٢. Naqd Quarterly Journal, issue ٨, pg. ۶٨ onwards.

?The Supreme Leader: Elected or Appointed

?Question: Is the Supreme Leader elected to his position or appointed to it

point

The position of the Supreme Leader is granted by appointment and this can be proven through the logical proofs and also the narrated proofs (the Qur`an and ahadith) of which, we shall refer to some below.

A. The Logical Proofs

Seeing as how the governance of the Jurist is known as a continuation of the leadership of the infallible A`immah (AS) and since the infallible A`immah (AS) are guardians (of the faith) who have been appointed directly by Allah (SWT), the Jurist who fulfills all of the criteria (for being

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Ibid., pp. ۲۴۸ - ۲۴۹ -۱

followed) is also one who has been appointed by Allah (SWT) and the infallible A`immah (AS) to the station of the Supreme Leader over the Islamic society.

In regards to this, we state that: Our intellect dictates that a person's felicity is tied to the Divine Laws and on his own, mankind is not able to formulate laws which would be without defect for his happiness in this life and the next.

The Divine Laws, which have been conveyed through the perfect human being referred to as the prophet of Allah (SWT) were given to humanity as a gift, and since these laws cannot have any impact if they are not implemented, and since the implementation of such laws cannot be carried out error free except by one who is infallible, it is for this reason that Allah (SWT) appointed and sent prophets (AS) and then followed this up with the infallible A`immah (AS) as guardians over the Islamic society and for the implementation of the teachings of the faith.

Since it is inconsistent with the wisdom of Allah (SWT) and His grace that during the period of occultation of the Imam of the time (may Allah hasten his noble advent) that the Muslims would be left without a leader and that the faith and the final way of life (Shariah) would be abandoned without a guardian, it is for this reason that the Jurists who fulfill all of the requirements (to lead) – who happen to be the closest people

to the infallible A`immah (AS) from three angles – their knowledge, justice, and ability of management – are therefore recognized as the successors to Imam al-Zaman .((may Allah hasten his noble advent

Therefore, during the period of the occultation, the Jurists have been appointed to be .the guardians of the Islamic society

Thus, it becomes incumbent upon the Muslims and the wise people of the society who fully comprehend the issue as it has been presented and are not caught up in unruliness and the worship of their lower desires and passions, to accept the governance of such worthy individuals. Through this, the religion of Allah (SWT) will .become manifest throughout the entire society

Therefore, the governance of the Jurist who fulfills all of the conditions (for leadership) is just as the rule of the Prophet (SAWW) and the infallible A`immah (AS). By this we mean that in regards to the maintenance of the Islamic society, just as the people would pledge their allegiance to the Prophet (SAWW) and the Imam (AS) as the governor who has been appointed by Allah (SWT), and would accept the authority of these individuals over them, so too during the period of the occultation, the people must also pledge their allegiance and give their hand in fealty and follow the worthy and rightful representative of Imam al-Asr (may Allah hasten his noble advent) who (has been proclaimed by the infallible A`immah (AS) as the leader.(١

B. The Qur`anic Proofs

The various verses of the Noble Qur`an give us a general

p: ١٧

١- Ayatullah Abdullah Jawadi Amuli, Wilayatul Faqih, Section on Wilayat of the Jurists .and Adalat, pp. ٢١٢ to ٢١٣

picture of the appointment of the Islamic leader (and the Jurist). From amongst all of :these verses, we narrate the following

يَا أَيُّهَا الَّذِينَ آمَنُوا أَطِيعُوا اللهَ وَأَطِيعُوا الرَّسُولَ وَأُوْلِي الأَمْرِ مِنْكُمْ فَإِنْ تَنَازَعْتُمْ فِي شَيْءٍ فَرُدُّوهُ إِلَى اللهِ وَالرَّسُولِ إِنْ كُنتُمْ تُؤْمِنُونَ بِاللهِ وَالْيَوْمِ الآخِرِ ذَلِكَ خَيْرٌ وَأَحْسَنُ تَأْوِيلاً. أَلَمْ تَرَ إِلَى الَّذِينَ يَزْعُمُونَ أَنَّهُمْ آمَنُوا بِمَا أُنزِلَ إِلَيْكَ وَمَا أُنزِلَ مِنْ قَبْلِكَ يُرِيدُونَ أَنْ يَتَحَاكَمُوا إِلَى الطَّاغُوتِ وَقَدْ أُمِرُوا أَنْ يَكْفُرُوا بِهِ وَيُرِيدُ الشَّيْطَانُ أَنْ يُضِلَّهُمْ ضَلاَلاً بَعِيدًا. وَإِذَا قِيلَ لَهُمْ تَعَالَوْا إِلَى مَا أَنزَلَ اللهُ وَإِلَى الرَّسُولِ رَأَيْتَ الْمُنَافِقِينَ يَصُدُّونَ عَنْكَ صُدُودًا

O you who have faith! Obey Allah and obey the Apostle and those vested with" authority among you. And if you dispute concerning anything, refer it to Allah and the Apostle, if you have faith in Allah and the Last Day. That is better and more favourable in outcome. Have you not regarded those who claim that they believe in what has been sent down to you, and what was sent down before you? They desire to seek the judgment of the despot, though they were commanded to defy it, and Satan desires to lead them astray into far error. And when they are told, 'Come to what Allah has sent down and [come] to the Apostle,' you see the hypocrites keep away from you, (aversely."(١

In these verses, the Qur`an expressly orders us to obey Allah (SWT), His Messenger (SAWW) and those who are 'in authority amongst us' and in times of dispute and differences, rather

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Surat al-Nisa (۴), Verses ۵۸ to ۶۱ -١

than referring to the despots, we must refer to Allah (SWT) and His Messenger (SAWW). This means that we must be satisfied with the ruling given by the book of .(Allah (SWT) and the sunnah of the Prophet (SAWW

Thus, the responsibility of the Muslims is that they must submit to those who are put .into authority over them

However, are those who are in authority (whom we are to obey) the despotic forces? Without a doubt, this is not the case since in the verse which follows, this has been !forbidden

Therefore, the meaning of those who are charged with authority from amongst us whose commandments must be followed are individuals whose directives are on the :(same level as those of Allah (SWT) and His Messenger (SAWW

يَا أَيُّهَا الَّذِينَ آمَنُوا أَطِيعُوا اللهَ وَأَطِيعُوا الرَّسُولَ وَأُوْلِى الأَمْرِ مِنْكُمْ..

O you who have faith! Obey Allah and obey the Apostle and those vested with“ ”...authority among you

The meaning of ‘those who are charged with authority from amongst you’ are those people who follow the Qur`an and the Sunnah in relation to governance and .judgment

In the second verse which we wish to look at (as was quoted above), we see that Allah (SWT) has stated that those who show satisfaction with the governance and judgment of the despotic forces have actually disbelieved in all of the Divinely !revealed books

If the responsibility of the Muslims is to keep away from and struggle against the despotic governments, then it stands to reason that it

is their responsibility to establish a just government and submit themselves to those :who order others to act according to the Qur`an and the Sunnah

تَـــــــعَالَوْا إِلَـى مَا أَنْـــــــــــــــزَلَ اللهُ وَ إِلَـى الرَّسُولِ. ...

".Come to that which Allah has revealed and [come] to the Messenger"

From this verse, we understand that in the Qur`anic terminology, a despotic force refers to the person who judges contrary to the rulings of the Qur`an and the Sunnah of the Prophet (SAWW). Thus, the only person who is worthy of attaining the !government is the one who judges by the Qur`an and the Sunnah

Thus, one of the conditions of governance is a deep understanding of the Book of (Allah (SWT) and the Sunnah – and this is reserved for the one who is a Jurist.(١)

(C. The Narrated Proofs (Ahadith

There is a long tradition contained in the book Tuhaf al-Uqul from Imam Husayn b. .١ Ali (AS) in which the Imam (AS) reprimanded the scholars of his time as to why, due to their own slackness and differences, they were denied the status of leadership. In this :tradition, the Imam (AS) stated

وَ أَنْتُمْ أَعْظَمُ النَّاسِ مُصِيبَةً لِمَا غُلِبْتُمْ عَلَيْهِ مِنْ مَنَازِلِ الْعُلَمَاءِ لَوْ كُنْتُمْ تَشْعُرُونَ ذَلِکَ بِأَنْ مَجَارِیَ الأُمُورِ وَ الأَحْكَام عَلَى أَيْدِی الْعُلَمَاءِ بِاللهِ الأُمَنَاءِ عَلى حَلاَلِهِ وَ حَرَامِهِ فَأَنْتُمُ الْمَسْلُوبُونَ تِلْكَ الْمَنْزِلَهِ وَ مَا سُلِبْتُمْ ذَلِکَ إِلاَّ بِتَفَرُّقِكُمْ عَنِ الْحَقِّ وَ اخْتِلاَفِكُمْ فِي السُّنَّهِ بَعْدَ الْبَيِّنَهِ الْوَاضِحَهِ...

"You are the people at the greatest loss - if you only knew - as you subdued the status of scholars, as the

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Abbas Yazdani, Discussions on Religious Governance, pp. ٣٢ to ٣۴ -١

answers to affairs and religious rulings rest with these godly scholars – those who are responsible for (guiding you to) the permissible (halal) and impermissible (haram) as prescribed by Allah. You have not plundered that dignity and have not deprived (yourselves) of that status except by your swaying from the truth and disagreeing with the Sunnah after it has been shown clearly. If you would be patient in the face of tribulations and would bear whatever has been provided, for the sake of Allah - then the commands of Allah would come to you, would issue from you and would return ".back to you

Ishaq b. Yaqub wrote a letter to Imam Wali al-Asr (AS) [the ۱۲th Imam] and gave it .۲ to Muhammad b. Uthman, the representative of the ۱۲th Imam to pass it on to the Imam (AS). In a portion of the reply, Imam al-Zaman (AS) wrote the following as a :response to the questions of Ishaq

أَمَّا الْحَوَادِثُ الْوَاقِعَهُ فَارْجِعُوا فِيهَا إِلـى رَوَاهِ حَدِيثِـــنَا فَإِنَّهُمْ حُجَّتِى عَلَيْكُمْ وَ أَنَا حُجَّهَ اللهِ.

As for those events that will occur in the future, (for the answer on how to deal with" them), refer to those people who narrate our sayings (ahadith) since surely they (the (Ulama) are my proof over you and I am the proof of Allah."(۱)

The proofs which we have, show us that the challenge which Ishaq b. Yaqub was facing was not in finding a person to answer his religious enquiries. He was not a person that did

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Ikmal al-Din wa Itmam al-Nimah, section on the Letters of the ۱۲th Imam, no. ۴; -۱ .Wasa`il ash-Shia, vol. ۱۸, section on the Traits of a Islamic Judge, no. ۹

not know that answers to the practical laws of Islam relating to worship and transactions had to be taken from the scholars of the traditions of the Infallibles (AS)! Rather, his hindrance was in understanding his responsibility in relation to societal issues for which the only way to solve these sorts of challenges was to have the judgment of one who had the right of governance (over him).

In this letter, first off we see that the Imam (AS) orders the people to refer to the Jurists; they are then told that they must follow such people due to the fact that they are a proof (hujjat) over them.

From the general purport of this discussion, it is clear that the authority of the Jurist is vast and is at the same scale as the authority of the Imam (AS).(۱)

۳. Umar b. Hanzalah asked Imam Ja’far b. Muhammad as-Sadiq (AS) a question in regards to two Shia, who due to either a loan or some inheritance, had gotten into a dispute with one another. Were they permitted to refer to the governor or the judges of the un-Islamic system for a ruling? The text of the tradition and the answer of the Imam (AS) is as follows:

سَأَلْتُ أَبَا عَبْدِ اللهِ عَلَيْهِ السَّلاَمُ عَنْ رَجُلَيْنِ مِنْ أَصْحابِنا بَيْنَهُما مُنَازَعَةٌ فِى دَيْنٍ أَوْ مِيراثٍ فَتَحاكَما إِلَى السُّلْطَانِ وَ إِلَى الْقُضاهِ أَ يَحِلُّ ذَلِكَ؟ قالَ: مَنْ تَحاكَمَ إِلَيْهِمْ فِى حَقٍّ أَوْ باطِلٍ فَإِنَّما تَحاكَمَ إِلَى الطَّاغُوتِ وَ ما يَحْكُمُ لَهُ فَإِنَّما يَأْخُذُ سُحْتاً وَ

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۱ - Refer to Wilayat-e-Faqih containing the opinions of Ayatullah Muhammad Taqi Misbah Yazdi as compiled by Muhammad Mahdi Nadiri Qummi, pp. ۹۸ and ۹۹.

إنْ كَانَ حَقّاً ثَابِتاً لِأَنَّهُ أَخَذَهُ بِحُكْمِ الطَّاغُوتِ وَ قَدْ أَمَرَ اللَّهُ أَنْ يُكْفَرَ بِهِ قَالَ اللَّهُ تَعَالَى: يُرِيدُونَ أَنْ يَتَحاكَمُوا إِلَى الطَّاغُوتِ وَ قَدْ أُمِرُوا أَنْ يَكْفُرُوا بِهِ. قُلْتُ: فَكَيْفَ يَصْنَعَانِ؟ قَالَ: يَنْظُرَانِ إِلَى مَنْ كَانَ مِنْكُمْ مِمَّنْ قَدْ رَوَى حَدِيثَنَا وَ نَظَرَ فِي حَلَالِنَا وَ حَرَامِنَا وَ عَرَفَ أَحْكَامَنَا فَلْيَرْضَوْا بِهِ حَكَماً فَإِنِّي قَدْ جَعَلْتُهُ عَلَيْكُمْ حَاكِماً فَإِذَا حَكَمَ بِحُكْمِنَا فَلَمْ يَقْبَلْهُ مِنْهُ فَإِنَّمَا اسْتَخَفَّ بِحُكْمِ اللَّهِ وَ عَلَيْنَا رَدَّ وَ الرَّادُّ عَلَيْنَا الرَّادُّ عَلَى اللَّهِ وَ هُوَ عَلَى حَدِّ الشِّرْكِ بِاللَّهِ.

I asked Aba Abdillah, peace be upon him, about two of our people (the Shia) who" have a dispute amongst themselves regarding a loan or an inheritance and seek a judgment from the ruler or from (government appointed) judges – is this permissible (for them)? He said, 'The one who seeks judgment from them justly or unjustly has sought judgment from the despot and (if he takes) that which has been awarded to him, then surely he has taken (possession) unlawfully even if it may be an established right, because he took it by the judgment of a despot whereas Allah has commanded that he (the despot) be defied. Allah (Glorious and Free from Imperfections is He) says: They desire to seek judgment from a despot, though they were commanded to defy it..."

I said, "Then what should they do?" He said, "They should wait for one from among them who has narrated (traditions) from us, has observed our permissible (halal) and impermissible (haram), knows our

rulings and should suffice with his judgment for I have made him a judge over you. So if he judges by our judgment and it is not accepted, then Allah's judgment has been belittled and he has rejected us - and the one who rejects us has rejected Allah and this is the same as ascribing partners to Allah."(۱)

From this tradition, we can deduce the following three points:

۱. In regards to the portion of the tradition which reads:

قَدْ رَوَى حَدِيثَنَا وَ نَظَرَ فِى حَلَالِنَا وَ حَرَامِنَا وَ عَرَفَ أَحْكَامَنَا فَلْيَرْضَوْا بِهِ حَكَماً...

"That person who narrates our tradition and who knows our permissible (halal) and our impermissible (haram) and knows our injunctions..."

the Imam (AS) is, without doubt, referring to the Jurists and scholars of the faith of Islam since this part of the tradition cannot be in reference to anyone other than the person who is a Faqih and Mujtahid of the Islamic injunctions and religious issues.

۲. The second point gathered from this tradition from the portion which states:

...قَدْ جَعَلْتُهُ عَلَيْكُمْ حَاكِماً...

"...Surely I have placed them as a ruler over you..."

is a general formula given which actually shows us the 'reason for the ruling'.

From this we can understand that being in charge of the affairs and ruling over the societal issues which will occur in the future for which the people will need to refer to the government in place must be the undertaking of the Jurist.

۳. The third and final point which we gain from this

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۱ - Furu al-Kafi, vol. ۷, pg ۴۱۲; also refer to the work by Husain Jawan Araste, The Sources of Islamic Governance.

tradition is that the Imam (AS) has introduced the Faqih as the authority over the people. In addition, the ruling of the Faqih has been equated as being the same as the .(ruling of the Imam (AS

As we know, it is obligatory to obey the command of the infallible Imam (AS) and in the same way, the Imam (AS) himself has stated that denying the governance and ruling of the Faqih is equivalent to not accepting the governance of the infallible Imam (AS) and is tantamount to considering his rule as being insignificant! This [not obeying the command of the Imam and the Faqih] is equal to not accepting the 'legislative !(governance' of Allah (SWT) and is equivalent to associating partners with Allah (SWT

:For more information on this, refer to

Wilayatul Faqih, Ayatullah Abdullah Jawadi Amuli .١

The Sources of Islamic Governance, Husain Jawan Araste .٢

A Glance at the Opinions in regards to Wilayatul Faqih in the writings of Ayatullah .٣ .Muhammad Taqi Misbah Yazdi, compiled by Muhammad Mahdi Nadiri Qummi

The Necessity of Following the Orders of the Supreme Leader

?Question: Is it Obligatory to Follow the Orders of the Supreme Leader

First off, we must mention the following point that: An issue which is tied to the management of the affairs of the society – for the Prophet (SAWW), the infallible Imam (AS) and also for the Jurist – is related to the discussion of the 'wilayat tashrii' or the 'legislative authority'. This is what is referred to in the verse of the Qur`an which :reads

أَلنَّبِيُّ أَوْلـى بِالْمُؤْمِنِينَ مِنْ أَنْفُسِهِمْ...

The Prophet has a greater authority over the believers than they have"

(over their own selves." (١

:In addition, there is a hadith which states

مَنْ كُنْتُ مَوْلاَهُ فَهَذَا عَلِيٌّ مَوْلاَهُ.

".(Whosoever I am his master, this Ali is also his master (and authority"

.At this juncture, this verse and hadith form the basis of our discussion

Therefore, the 'legislative authority' refers to the 'judicial authority'. This means that a person can and has the right to, through the establishment and formation of laws and their implementation, intervene in the lives of the people and the society while .others are obliged to submit to such an individual and follow his laws

:The meaning of

أَلنَّبِيُّ أَوْلــى بِالْمُؤْمِنِينَ مِنْ أَنْفُسِهِمْ...

"The Prophet has a greater authority over the believers than they have over their own (selves."(٢

is that when the Prophet (SAWW) decides on an issue for an individual Muslim or for the entire Islamic society, it is obligatory to follow that decision. In addition, any resolution which the people would make in relation to themselves or the entire society !(would be superseded by the decision of the Prophet (SAWW

In other words, the society is in need of one powerful point of reference for which, in the face of societal issues, this focal-point would have the right and power to speak the final word and in the verse of the Qur`an quoted above, Allah (SWT) has clearly .identified the central point on the pyramid of authority

Therefore, the 'Guardianship of the Jurist' is not in the meaning of the mere guardianship over the mental challenged or simple minded people [since such individuals

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Suratul Ahzab (۳۳), Verse ۶ -۱

.Ibid -۲

do not have ability to maintain themselves and conduct their own lives, they are in .[need of an authority and assistant

Rather, it is our belief that the Jurist has the right of possession (of the property of others); right of formulating religious laws and societal regulations; passing rulings and the execution of the laws in relation to the administration of the affairs of the society and the societal issues. Therefore, we must place him ahead of all others while all other people are bound with the responsibility of observing this right and .obeying his decisions, commands and laws

:It is for this reason that we state that according to the verse

أَلنَّبِيُّ أَوْلـــى بِالْمُؤْمِنِينَ مِنْ أَنْفُسِهِمْ...

The Prophet has a greater authority over the believers than they have over their own" (selves."(١)

if the Prophet (SAWW) was to order a person to go to the battlefield and even if that person did not want to go, he would be obligated to obey the order of the Prophet !((SAWW

Or if, for example, a person had given his khums (٢٠٪ savings tax) and zakat (various religious tithes which have been explained in the detailed books of Islamic jurisprudence) and had no other compulsory financial obligations resting upon him, however if the Prophet (SAWW) was to order him to give a certain amount of money towards the war [or any other cause], then that person would be obligated to give that money! He would not have the right to object since his (the Prophet's

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.Ibid -١

SAWW) ruling is as the ruling of Allah (SWT) and as we know, when it comes to the) rule of Allah (SWT), there are no ifs, ands or buts!

The late Imam Khumayni (RA) had given the following example in his lessons on many occasions that:

If the Islamic authority was to tell me to give my Aba (cloak), then I must give it to" him. When the best interest of the Islamic society would have demanded it, the Jurist who is in authority must have discerned that he had a need for my Aba and thus, if he was to ask me for it, I would be obliged to obey him and hand it over."

This is the true meaning of the 'Governance of the Jurist' which has matured and set into our culture.

Until recent, there were no doubts in regards to this issue. Indeed, every single man and woman - young and old - villager or city dweller - knew this definition and accepted it.

In addition, there are also various proofs in regards to this authority, of which the most well-known is the 'Tobacco ruling' case and the verdict (hukm) which was laid down by the late Mirza Shirazi.

During the era of Mirza Shirazi, all of the Shia firmly believed that the Ulama and the Mujtahidin were sitting in the seat of authority which ultimately belongs to Imam al-Zaman (AS). Thus, if the one in the place of the Imam (AS) was to order something, his commands

.would be obeyed

:It is for this reason that when the late Mirza Shirazi stated that

اليوم استعمال تنباکو حرام و مخالفت با امام زمان (علیه السلام) است.

From today, the use of tobacco is forbidden (haram) and is akin to going against“ ”.(Imam al-Zaman (peace be upon him

all of the hookah machines were destroyed! Even the wife of Nasir al-Din Shah (the !ruler of Iran at that time) took the hookah pipe and threw it, breaking it

It did not come into anyone’s mind at how it was possible that tobacco usage, which up until the day before this ruling was issued was permissible and was not problematic was now forbidden!? Is it possible for the permissible (halal) and ??impermissible (haram) of Allah (SWT) to change like this

Rather, everyone – including the scholars, Maraja and those who had the right to issue legal rulings (fatawa) all realized that they were bound by the ruling and that !they had to follow the verdict of Mirza Shirazi

In any case, when the principle of the ‘Governance of the Jurist’ is proven using the logical and narrated proofs, then without doubt, the next rational step is complete .obedience of (the one who is in) that position

:For more information on this, refer to

١. The Governance of the Jurist: The Governance of the Jurisprudence and Justice by Ayatullah Abdullah Jawadi Amuli

٢. A Glance at the Theory of the Governance of the Jurist Ayatullah Muhammad Taqi Misbah Yazdi

٣. Naqd Quarterly Journal, Issue ٧

Criticizing the Supreme Leader

Question: Can the Supreme Leader be criticized? Who has the right to do this and under ?what conditions can he do this

It is

p: ٢٩

permissible to criticize the Supreme Leader, however in doing so, the following points :must be observed

Islamic etiquette must be observed at the time of criticizing and in this regards, the .۱ .Supreme Leader is the same as all other believers

:It must be noted that the conditions of criticizing include the following

a. Before criticism, the original subject matter, defect or shortcoming must be definite. This means that it must not be based on rumor or information which cannot be relied upon. It must also not be based upon one's supposition and without any sort of research such that something is unjustly attributed to an individual and is then used to .bring about objections and criticism upon him

b. The criticism must be done in order to bring about a reformation and improvement .– not that one becomes a fault picker and one who seeks to disgrace people

c. The criticism must be done because one feels sympathy and consideration for the other party and not because he wishes to be thought of as being greater than the .other person

d. The criticism must be done with no insult or abuse. Rather, it must be carried out with complete etiquette and by observing the status which the person holds. In .reality, such criticism must be presented to the individual as a gift

:Imam Ja'far b. Muhammad as-Sadiq (AS) has said

أَحَبُّ إِخْوَانِی إِلَـیَّ مَنْ أَهْدَی إِلَـیَّ عُیُوبِی.

My most beloved brother to me is the one who offers me my shortcomings as a" (gift."(۱

In addition to

Bihar al-Anwar, vol. ٧٨, pg. ٢٤٩, no. ١٠٨, sec. ٢٣ -١

what was mentioned above in regards to a respected individual (and how he should be treated) – especially the leader of the Islamic system, there are also other issues which must be kept in mind.

Certainly there is clear difference when it comes to a person criticizing his friend; a wife censuring her husband; a child pointing out the slips of his father or a student noting the errors of his teacher, than there is in criticizing a religious leader and authority.

The child and a student both owe a certain level of respect to their father and teacher, however above these people is the respect and honor which the Imam (AS) and his representative deserve.

۳. The third point in regards to criticizing the Supreme Leader is that one must keep the enemies (of Islam) in mind. Criticizing the Supreme Leader must be planned out with intelligence so that the enemies do not make ill use of such a thing.

Seeing as how it is necessary to observe this point when it comes to criticizing the Supreme Leader, we see that there is a commission referred to as the 'Assembly of Experts' whose task is to oversee the actions of the Supreme Leader and when necessary, inform him of their review (of him). In fact, this group of investigators was put into place by the advice of the Supreme Leader himself!

The Best Way to Appraise the Supreme Leader

In our opinion, in order to comply with the mentioned principles, the best path to follow in airing one's criticisms

is to write a letter to the Secretary General of The Assembly of Experts for the .Supreme Leadership [Majlis-e-Khubragan-e-Rahbari] explaining the issue at hand

Criticizing others in the establishment (the Parliament, Judicial System, etc...) has been mentioned in principle number ۹۰ of the constitution of the Islamic Republic of Iran :which reads

Whoever has a complaint concerning the work of the Assembly, executive power or" the judicial power can forward his complaint in writing to the Assembly. The Assembly must investigate his complaint and give a satisfactory reply. In cases where the complaint relates to the executive or the judiciary, the Assembly must demand proper investigation in the matter and an adequate explanation from them, and announce the results within a reasonable time. In cases where the subject of the complaint is of ".public interest, the reply must be made public

The Possibility of Error on the part of the Supreme Leader

?Question: What happens if the Supreme Leader makes a mistake

In the event that it is confirmed that the Supreme Leader has made a mistake, he can :be appraised of it, since

۱. According to our religious beliefs, it is only the prophets (AS), Sayyida Zahra (SA) and the twelve A`immah (AS) who are infallible. Therefore, no one else can claim that there is no possibility of the Supreme Leader making a mistake in his actions or his opinions! There is a possibility of error and mistake in the Supreme Leader and it is (possible that others may notice it.(۱

۲. In the Islamic system and governance of the religion, each and every person is responsible and answerable to the laws

۱ - Ayatullah Muhammad Taqi Misbah Yazdi, Questions and Answers, vol. ۱, pg. ۶۹, .question ۱۱

.laid down

The principle of Amr bil Maruf wa Nahi anil Munkar or ‘enjoining the good and .۳ forbidding from the evil’ is a responsibility of every person - even the Jurist who fulfills all of the requirements (of being followed) – including the Supreme Leader! This responsibility (general supervision and that of commanding to good and forbidding from evil) is obligatory upon the people.(۱) Therefore, based on this, we are permitted .to appraise the Supreme Leader if he makes a mistake

According to the teachings of the faith, one of the rights of the leader which he has over the people is the necessity to show sympathy and wish the best for him (the leader). This right has been mentioned under the heading of ‘Admonishment to the in the books of ahadith.(۲) However it (النصـحيه لأئمه المسلمين) ’Leaders of the Muslims should be noted that the meaning of ‘admonishment’ as is mentioned does not refer to counsel and advice. Rather, it means to have sympathy and wish the best for the .leaders of Islam

Therefore, not only is the act of appraising the Supreme Leader permissible, rather it is a religious obligation which rests upon the Muslims and the interests and benefits of (a person or group of people must not get in the way of enacting this obligation.(۳) (AS

Addendum: Governance of a Jurist and Jurisprudence

point

Addendum(۴): Governance of a Jurist and Jurisprudence

Question: What is the relationship between ‘Governance of a Jurist’ (Wilayat al-Faqih) ?(and authority in Jurisprudence (Marjaiyyat

Brief Answer

Wilayat is a part of marjaiyyat in the culture of the Shia. The great maraji not only guide people with respect to the divine

۱- Ayatullah Abdullah Jawadi Amuli, The Governance of the Jurist: Governance of Jurisprudence and Justice, pg. ۴۹۶.

۲- Nahjul Balagha, sermon ۳۴

۳- Ayatullah Muhammad Taqi Misbah Yazdi Questions and Answers, vol. ۱, pg. ۶۹.

۴- This final section has been extracted from the book, Faith and Reason, published by the Islamic Education Board of the World Federation of KSIMC. This work can be read in its entirety and also purchased from www.world-federation.org/ieb [۱۵] or ieb.world-federation.org.

Law, but they also lead people in the particular problems of society – even judging between people in particular matters and domestic disputes. But if we separate the two matters and associate the former with marjaiyyat then a number of questions :arise

?Is it permissible to separate marjaiyyat and wilayat .۱

If we suppose that it is permissible, then is it possible to have multiple maraji and .۲ ?leaders

If it is possible to separate the marji and the leader, is it possible to follow other .۳ ?than the leader in rules relating to society and the individual

The answers to the aforementioned questions are as follows: The reason that the jurisprudent is an authority in matters of the law is because of his specialization in jurisprudence and his power to derive the rules of Allah (SWT) from their sources while the reason that a leader is what he is, is because aside from the above mentioned qualities, he has the ability to manage society according to the principles and values of Islam. It is because of this fact that it becomes possible for a person to be chosen as a leader due not so much to his aptitude in jurisprudence as much as to .his better management skills

In lieu of this reality, the separation of the offices of the marji and the leader becomes .a reasonable, and in some instances, a necessary expedient

In principle, leadership is confined to a single person, whereas the marjaiyyat is .applicable to numerous individuals

But the possibility for the reverse situation also holds; just as does the possibility that the two offices should be combined in a single individual. Since following the orders of the leader is obligatory upon all people - including other jurisprudents - and it is forbidden to disobey his orders, hence it is not possible for people to follow other than .the leader in matters related to the social order and the running of society

What was said above regarding the authority of the jurisprudent was in reference to the individual order and to matters of a personal nature; it is in these matters that .people can follow other than the leader

Detailed Answer

:The Noble Prophet (SAWW) of Islam had three mandates

١. To propagate Allah's (SWT) message; teaching the laws of religion and guiding the ;people

٢. ;To judge between people when they differed

٣. .To lead and manage society

All of these qualities and functions exist for the jurisprudents in the time of the :occultation of the Imam (AS). They too have three functions

١. ;Acting as judges and resolving disputes that arise between people

٢. Giving edicts in law and expounding the general rules of the Divine law for the ;people. This can be considered a type of guidance of the people

٣. .Leadership

Wilayat is a part of marjaiyyat in the culture of the Shia. The great maraji not only guide people with respect to the divine Law, but they also lead people in the particular problems of society - even judging between people in

particular matters and domestic disputes. But if we separate the two matters and :associate the former with marjaiyyat then a number of questions arise

Is it permissible to separate marjaiyyat and wilayat? In other words is it possible .۱ that one individual is the one people refer to in the general matters of the law while ?another person is the leader of the Islamic nation

If we suppose that it is permissible, then is it possible to have multiple maraji and .۲ ?leaders? Is there a difference between them in this regard

If it be possible to separate the marji and the leader, is it possible to follow other .۳ ?than the leader in rules relating to society and the individual

Before we answer the aforementioned questions it is necessary for us to give a brief .explanation of the "edict" that the leader issues

When the jurisprudent refers to the religious sources in order to obtain the general rule of Allah (SWT) regarding a certain problem and uses the special techniques that exist for obtaining the rules of the Law, it is called giving an edict or 'fatwa'. When the leader pays attention to the general rules of Allah (SWT), the various systems in Islam, and the conditions of the time, and according to these delineates a person's or a specific group's responsibility with regards to a certain matter, this is called giving an order or a 'hukm'. In doing this, he not only pays attention to the general rules of Islam

and the lofty aspirations of the religion, but also to the specific conditions that exist in .that time

As long as those conditions exist, the order issued by him or his representative is binding. Of course from the point of view of the law, the rules of Allah (SWT) and the edicts of the jurisprudent who has all the necessary qualifications are also binding, just like the rulings of the leader, but with this difference that the jurist's rulings are binding on him and his followers only, while everyone must follow the orders of the .leader

With this in mind we will now answer the first question, in other words the separation of the marjaiyyat and the leader. According to the logic of the 'leadership of the jurisprudent' and its proofs, the jurisprudent takes upon himself the management of society and in accordance with the values of Islam, he takes on the responsibility of leadership. But marjaiyyat means simply to issue an edict and is a completely .different matter

.In order to understand marjaiyyat it is necessary to explain taqlid first

In the Persian language, taqlid means to follow someone without a proof. Taqlid in the parlance of jurisprudence means that someone follows a specialist in a specific matter that is in line with his specialty. The first meaning is considered bad in the eyes of all sane people, but the second is totally sound and accepted by them. The most important proof as to the permissibility of taqlid lies in

the fact that the person who is not a specialist in a particular field must refer to the specialist of that field. All of the proofs that are contained in the traditions and verses of the Qur`an regarding taqlid point to this very fact. Like for example the verse that :says

وَمَا أَرْسَلْنَا مِنْ قَبْلِكَ إِلاَّ رِجَالاً نُوحِى إِلَيْهِمْ فَاسْأَلُوا أَهْلَ الذِّكْرِ إِنْ كُنْتُمْ لاَ تَعْلَمُونَ

We did not send [any apostles] before you except as men to whom We revealed—" (ask the People of the Reminder if you do not know."(١

With this explanation it becomes clear that the reason that the jurisprudent is an authority in matters of the law is because of his specialization in jurisprudence and his power to derive the rules of Allah (SWT) from their sources while the reason that a leader is what he is, is because aside from the aforementioned qualities, he has the .ability to manage society according to the principles and values of Islam

It is because of this that it becomes possible for a person to be chosen as a leader due not so much to his aptitude in jurisprudence as much as to his better management .skills

In lieu of this reality, the separation of the offices of the marji and the leader becomes .a reasonable, and in some instances, necessary expedient

With regards to the second question (i.e. whether the leadership and the marjaiyyat is confined to one person or is open to more than one person) and assuming that a

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Surat al-Nahl, (١۶), verse ۴٣ -١

separation of the two is possible, we must remember that when someone refers to the marji he does so because the marji is a specialist in the field of law and the one who refers, is not. This being the case, it is possible that there be numerous specialists in society. Moreover, this is something that is to be sought after so that everyone can .refer to them with ease and obtain their rulings

But the leadership of society, because it is tied up with the order of society and because the multiplicity of centres of decision making would cause a disturbance–since it is necessary for everyone to follow the leader in his rulings–dictate that the leader be one. This is especially true because according to Islam there is only one nation of Islam. Of course it is possible that specific conditions dictate that specific areas have their own leaders, but all of these leaders should cooperate with one another. But it is not necessary that various jurisprudents issue one edict in order that society not be disturbed. Rather, every jurisprudent issues his edict according to his .judgment and the general rules of deriving the laws from their sources

In principle, leadership is confined to a single person, whereas the marjaiyyat is applicable to numerous individuals. But the possibility for the reverse situation also .holds true

As to the third question (i.e. the possibility of following someone other than the leader in all matters) we must not lose sight of the fact

that when the leader issues an order or a ruling he looks at all aspects of the situation from the perspective of the various systems and realms within Islam, and after such .an appraisal and due to his position it is his opinion which has the final say

If it were permissible for people to follow other than the leader in all matters, while the orders of the leader remain binding upon them, then in certain cases this would lead to a serious problem. In other words, it is possible that in a specific matter of social order the leader could issue an edict and say that if my ruling was other than this I would have said so, while on the other hand the marji of the people could issue a ruling other than his. In this situation how can we expect the people to follow the edict ?of the ruler

It is with regards to this problem that it seems necessary that people do not follow other than the leader in social and state matters, since to disobey his order is forbidden according to all the jurisprudents. Therefore what was said above regarding the authority of the jurisprudent and marji was in reference to the individual order and to matters of a personal nature; it is in these matters that people .can follow other than the leader

p: ۴۰

About center

In the name of Allah

هَلْيَسْتَوِيالَّذِينَيَعْلَمُونَوَالَّذِينَلَايَعْلَمُونَ

?Are those who know equal to those who do not know

al-Zumar: ٩

:Introduction

Ghaemiyeh Computer Research Institute of Isfahan, from ٢٠٠٧, under the authority of Ayatollah Haj SayyedHasanFaqihImami (God blesses his soul), by sincere and daily efforts of university and seminary elites and sophisticated groups began its activities .in religious, cultural and scientific fields

:Manifesto

Ghaemiyeh Computer Research Institute of Isfahan in order to facilitate and accelerate the accessibility of researchers to the books and tools of research, in the field of Islamic science, and regarding the multiplicity and dispersion of active centers in this field

and numerous and inaccessible sources by a mere scientific intention and far from any kind of social, political, tribal and personal prejudices and currents, based on performing a project in the shape of (management of produced and published works from all Shia centers) tries to provide a rich and free collection of books and research papers for the experts, and helpful contents and discussions for the educated generation and all classes of people interested in reading, with various formats in the .cyberspace

:Our Goals are

(propagating the culture and teachings of Thaqalayn (Quran and Ahlulbayt p.b.u.t-

encouraging the populace particularly the youth in investigating the religious issues-

replacing useful contents with useless ones in the cellphones, tablets and computers-

providing services for seminary and university researchers-

spreading culture study in the publich-

paving the way for the publications and authors to digitize their works-

:Policies

acting according to the legal licenses-

relationship with similar centers-

avoiding parallel working-

merely presenting scientific contents-

mentioning the sources-

.It's obvious that all the responsibilities are due to the author

:Other activities of the institute

Publication of books, booklets and other editions-

Holding book reading competitions-

Producing virtual, three dimensional exhibitions, panoramas of religious and tourism- places

.Producing animations, computer games and etc-

Launching the website with this address: www.ghaemiyeh.com-

Fabricatingdramatic and speech works-

Launching the system of answering religious, ethical and doctrinal questions-

Designing systems of accounting, media and mobile, automatic and handy systems,- web kiosks

Holding virtual educational courses for the public-

Holding virtual teacher-training courses-

Producing thousands of research software in three languages (Persian, Arabic and- English) which can be performed in computers, tablets and cellphones and available and downloadable with eight international formats: JAVA, ANDROID, EPUB, CHM, PDF, HTML, CHM, GHB on the website

Also producing four markets named "Ghaemiyeh Book Market" with Android, IOS,- WINDOWS PHONE and WINDOWS editions

:Appreciation

We would appreciate the centers, institutes, publications, authors and all honorable .friends who contributed their help and data to us to reach the holy goal we follow

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